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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,642	03/23/2004	Tianyi Chang	29621/GD0003	2568
4743	7590	10/06/2006	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606				KARLS, SHAY LYNN
ART UNIT		PAPER NUMBER		
		1744		

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/806,642	CHANG, TIANYI
	Examiner	Art Unit
	Shay L. Karls	1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 July 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6,8-10,14-17,19-23 and 25-34 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6,8-10,14-17,19-23 and 25-34 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 July 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Drawings

The drawings were received on 7/17/06. These drawings are acceptable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8, 10, 14-17, 19-23, 25, 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (USPN 6735808).

Chen teaches a hairbrush comprising a body (5) having a first end and second end. There is a brush head (6, 7) on the first end of the body, where the brush head has a first side, a second side and a perimeter. There is a first set of bristles (62) disposed on the first side of the head and a second set of bristles (73) located between the first set of bristles and the perimeter. The first set of bristles is stiffer and harder than the second set (the first is used for massaging and the second is used for cleaning). The second set of bristles partially completely encircles the first set of bristles (figure 4). There is a handle (52) located near the second end of the body. The first set of bristles is wider than the second set (figure 7 shows how each individual massaging bristle is wider than the individual cleaning bristle). The first set of bristles is longer than the second set (figure 7). The first set of bristles individually is larger than the individual bristles of the second

set. The ends of the first set of bristles are generally spherical or rounded (figure 7). The head of the brush contains apertures for receiving the first and second sets of bristles. The brush head, the first set of bristles and the second set of bristles have corresponding shapes. The head is circular and the first set of bristles form a circular shape, as does the second set of bristles.

Claims 1-2, 5-6, 8-10, 14-17, 19-20, 23, 25-30, 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Duyck (BE 1007329 A6).

Duyck teaches a hairbrush comprising a body (1) having a first end and second end. There is a brush head (8) on the first end of the body, where the brush head has a first side, a second side and a perimeter. There is a first set of bristles (4) disposed on the first side of the head and a second set of bristles (2, 3) located between the first set of bristles and the perimeter. The first set of bristles is stiffer and harder than the second set (the first is used for massaging and the second is used for untangling). The second set of bristles partially completely encircles the first set of bristles (figure 1). There is a handle (1') located near the second end of the body. The ends of the first set of bristles are generally spherical or rounded (figure 2). The head of the brush comprises a cushion (6). The head of the brush contains apertures for receiving the first and second sets of bristles. The brush head, the first set of bristles and the second set of bristles have corresponding shapes. The head is circular and the first set of bristles form a circular shape, as does the second set of bristles.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Duyck.

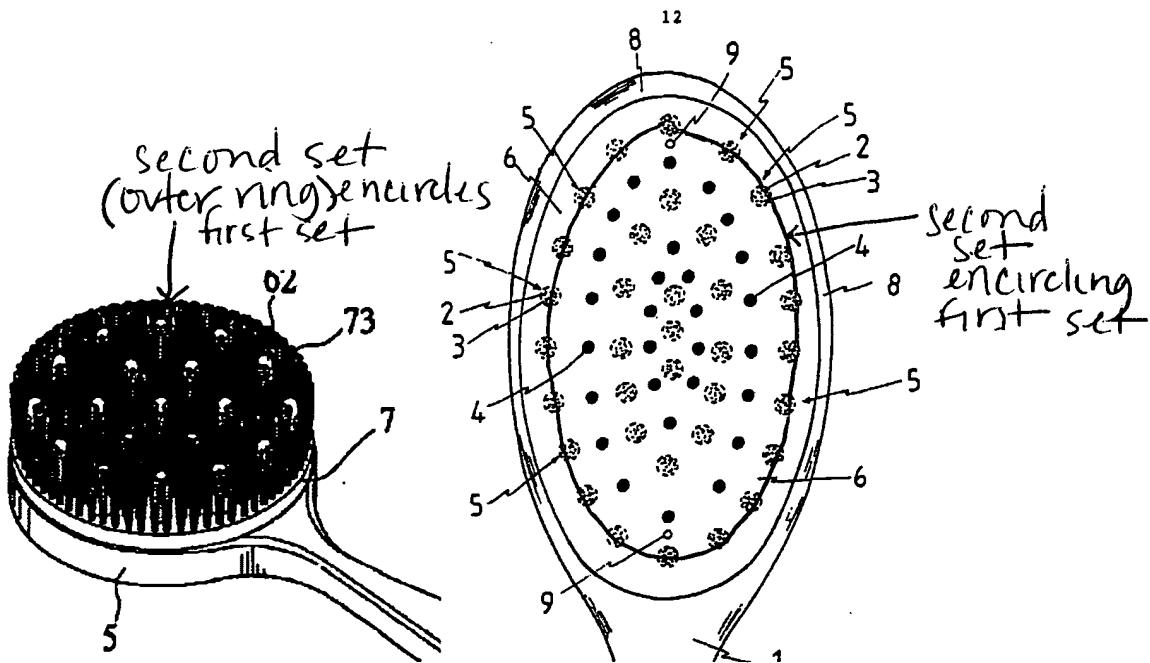
Chen teaches all the essential elements of the claimed invention as stated above however fails to teach that the brush comprises a cushion pad. Duyck teaches a brush with massaging elements connected to a conventional pneumatic cushion. It would have been obvious to modify the bristles of Chen so they are attached to a pneumatic cushion pad as taught by Duyck. Pneumatic cushions are well known in the art of brushes. Pneumatic cushions are used frequently in hairbrushes and body brushes so that the bristles will conform to the curvatures of a user's body. The cushion pad allows for flexibility of the bristles so that when in use the brush fully adjusts to ensure complete contact of the bristles to the head or other body parts.

Response to Arguments

Applicant's arguments, see page 9, filed 7/17/06, with respect to Nakamura (USPN 6341611) have been fully considered and are persuasive. The rejection of Nakamura has been withdrawn.

Applicant's arguments filed 7/17/06, with respect to Chen (USPN 6735808) and Duyck (BE1007329) have been fully considered but they are not persuasive.

The applicant argues that Chen and Duyck fail to teach that the second set of bristles encircles the first. However as shown below, both references show that the first set of bristles are encircled by the second set. The outer ring of the second set of bristles encircles the entire first set of bristles. The claim is written so that the first set of bristles are completely encircled within the second set, which is true for the prior art references. The claim does not exclude bristles from the second set being intermingled within the first set. The claim only states that the second set must encircle the first set, not that all the bristles of the second set must encircle all the bristles of the second set. Even if the claim did state that all the bristles of the second set must encircle the bristles of the second set, there is nothing preventing only the outer ring of bristles from being called the second set. The second set does not necessarily need to include all the bristles that are not included in the first set, since there is not an explicit teaching of what a “set” is. For example, on the Duyck patent, the outer ring could be considered the first set, the next ring inward could be considered the second set, and the next ring inward from the second set could be considered the third set and so on. For this example, Duyck still reads on the claim language since the first and second sets of bristles have different properties.



Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Karls whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKarls

Slk
9/15/06



GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER